IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.Rev.Pet.No. 2158 of 2007()

CRA.16/2007 of ADDL. DISTRICT & SESSIONS COURT, (ADHOC-II), THODUPUZHA
ST.405/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, IDUKKI

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REVN. PETITIONER: APPELLANT/ACCUSED

BENNY MATHEW MENACHERIYIL @,
KOTATTIPPARAMBIL HOUSE, MANIPPARA P.O.,
KARIMPAN, IDUKKI.

BY ADV. SRI.T.J.MICHAEL
SRI.P.NOOR SEMIR

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR.

2. SABU M.G., MATTATHIL (H), CHALICITY
UPPUTHODU VILLAGE IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.2158 of 2007

Dated this the 4th day of June, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to imprisonment till the rising of the court and to pay a compensation of Rs.1,00,000/- to the complainant vide Section 357(3) of the Code of Criminal Procedure and in default, to undergo simple imprisonment for three months.

2. The contention of the counsel for the revision petitioner is that notice has been not properly sent. I find that PW1, the complainant has testified with respect to the execution of the cheque. PW2 the postman in cross examination has testified that he informed the accused about the fact of the notice. Notice was returned unclaimed. It is the version of PW2 that he attempted to serve the notice in both the house name of the accused and in his shop address. Further he informed personally the accused as to the notice and the same remained unclaimed. I find that the evidence adduced in this regard

by the complainant has clearly established the fact of sending notice and the evidence of PW2 would show that the accused was evading from the service of notice.

3. In the circumstances, I find that the contention of the revision petitioner in this regard which was rejected by both the courts below has no merits. Hence, the conviction and sentence imposed is confirmed. Revision petitioner is granted three months' time from today onwards to remit the compensation amount. He shall appear before the Judicial First Class Magistrate Court-I, Idukki on 5.9.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl